IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 5441 of 2007(S)

OA.693/2005 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONERS:
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1. UNION OF INDIA, REPRESENTED BY THE GENERAL MANAGER, SOUTHERN RAILWAY, HEADQUARTERS OFFICE, PARK TOWN P.O., CHENNAI-3.

2. THE DIVISIONAL RAILWAY MANAGER, SOUTHERN RAILWAY, PALGHAT DIVISION, PALGHAT.

3. THE CHIEF MEDICAL SUPERINTENDENT, RAILWAY HOSPITAL, SOUTHERN RAILWAY, PALGHAT DIVISION, PALGHAT.

4. THE SENIOR DIVISIONAL PERSONNEL OFFICER SOUTHERN RAILWAY, PALGHAT DIVISION, PALGHAT.

BY ADV. SMT.M.R.SREELETHA, SC, RAILWAYS

RESPONDENTS:

K.DHANARATHINAM, S/O.K.CHAMY,
RESIDING AT KAYAL VEEDU, AKALUR P.O.,
VIA OTTAPALAM, PALAKKAD-679 302.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C)No.5441 OF 2007

Dated 19th February, 2007

JUDGMENT

Koshy,J.

This writ petition is filed against an order passed by the Central Administrative Tribunal by which claim of the respondent for family pension as physically handicapped son of a deceased Railway Pensioner was allowed. The ground taken is that as the son is married, he is not a member of the family though he is handicapped. 'Family' is defined under Sub Rule 19(b) of Rule 75 of the Railway Services (Pension) Rules and son who has not attained the age of 25 years is a member of the family. Only unmarried daughters who have not attained the age of 25 years are included in the category of 'family'. With regard to the son, he will not lose the benefit merely because he is married and there is no such bar. As far as physical condition of the respondent was concerned, he has to walk with the help of two elbow crutches. The medical certificate also shows that there is 8cm shortening of the (Lt) lower limb. The certificate shows the following defects of the respondent:

"**Physical examination**

Gait : Walks with the help of two elbow crutches

Left Lower Limb

Equinus deformity left lower limb

Extensive scarring of the left lower limb from thigh to ankle

The tibia is deformed

There is discharging wound
Thigh muscles are wasted

Movements of Left Lower limb

Hip	Normally
Left Knee	Knee is in full extension. A jog of flexion is possible
Ankle	Stiff in plantar flexion
	8cm shortening of the (Lt) lower limb compared to the (Rt) lower limb."

Even the Medical Board opined that he is not able to do any hard manual work. In the case of family pension matters of disabled dependents, of course, one has to look into the matter with compassion and sympathy. But, at the same time, rules cannot be violated. Central Administrative Tribunal found that the respondent is entitled to pension as per the Rules. We are in perfect agreement with the Tribunal.

State should not waste time and money in contesting such matters compelling the disabled dependents to contest in various courts. In any event, there is no patent illegality or perverse finding in the order of the Tribunal and this is not a fit case for attracting Article 227 of the Constitution of India.

The writ petition is dismissed.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

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